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PATENT
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letter
4-10-01
R. Stoker

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Bernard FEURER et al.

Appl. No.: 09/647,546 Group: 2873

Filed: November 29, 2000 Examiner: Unassigned

For: OPTICAL SYSTEM, IN PARTICULAR INTRAOCULAR LENS,
CONTACT LENS

L E T T E R

Assistant Commissioner for Patents
Washington, DC 20231

Date: February 28, 2001

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Sir:

Subsequent to the filing of the above-identified application on November 29, 2000, attached hereto is an English translation of the International Preliminary Examination Report (IPEA 409) which should be made of record in the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

YOUNG & THOMPSON

By 
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RJP:mdp
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Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

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Applicant's or agent's file reference AMD/MLA/ASB	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/FR99/00764	International filing date (day/month/year) 01 April 1999 (01.04.99)	Priority date (day/month/year) 02 April 1998 (02.04.98)
International Patent Classification (IPC) or national classification and IPC G02C 7/02		
Applicant IOLTECH		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 1 sheets.

3. This report contains indications relating to the following items:

- I Basis of the report
- II Priority
- III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV Lack of unity of invention
- V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI Certain documents cited
- VII Certain defects in the international application
- VIII Certain observations on the international application

Date of submission of the demand 02 November 1999 (02.11.99)	Date of completion of this report 12 July 2000 (12.07.2000)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/FR99/00764

I. Basis of the report

1. This report has been drawn on the basis of (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.*):

 the international application as originally filed. the description, pages 1-8, as originally filed,

pages _____, filed with the demand,

pages _____, filed with the letter of _____

pages _____, filed with the letter of _____

 the claims, Nos. _____, as originally filed,

Nos. _____, as amended under Article 19,

Nos. _____, filed with the demand,

Nos. 1, 2, filed with the letter of 19 June 2000 (19.06.2000),

Nos. _____, filed with the letter of _____

 the drawings, sheets/fig 1/1, as originally filed,

sheets/fig _____, filed with the demand,

sheets/fig _____, filed with the letter of _____

sheets/fig _____, filed with the letter of _____

2. The amendments have resulted in the cancellation of:

 the description, pages _____ the claims, Nos. _____ the drawings, sheets/fig _____

3. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

4. Additional observations, if necessary:

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	2	YES
	Claims	1	NO
Inventive step (IS)	Claims	2	YES
	Claims	1	NO
Industrial applicability (IA)	Claims	1, 2	YES
	Claims		NO

2. Citations and explanations

1 Reference is made to the following documents:

D1: EP-A-606598 (introduced by the examiner).

D2: EP-A-752598 (introduced by the examiner).

D3: EP-A-0 407 294 (ISSILOR INT) 9 January 1991 (1991-01-09)

D4: US-A-5 172 143 (MESLARD JEAN-CLAUDE ET AL) 15 December 1992)

(1992-12-15)

D5: YASUHIRO KOIKE ET AL: 'GRADIENT-INDEX CONTACT LENS' APPLIED OPTICS, vol.34,no.22, 1 August 1995 (1995-08-01), pages 4669-4673, XP000518143 ISSN:0003-6935

D6: EP-A-5 258 024 (CHAVEL PIERRE ET AL) 2 November 1993 (1993-11-02)

2 Taking into account what was said in section VIII, the object of Claim 1 is not new in relation to D1.

D1 defines an optic system made of a material whereof the refractive index has variations along at least one given direction (see page 5, lines 8-9)

The object of Claim 1 is likewise not novel in relation to D2 (see abstract, lines 7-8).

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3 The object of Claim 2 is novel and involves an inventive step (PCT Articles 33(2) and 33(3)) in relation to D1-D6, because none of the above-mentioned documents divulges an intraocular lens made of a homogenous material whereof the refractive index varies along at least one given direction, said material consisting of at least one three-dimensional liquid-crystal polymeric material.

INTERNATIONAL PRELIMINARY EXAMINATION REPORTInternational application No.
PCT/FR99/00764**VII. Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

- 1** The set of claims does not meet the conditions of PCT Rule 5.1(a) (ii) concerning the citation of prior art, i.e. D1 and D2.
- 2** The set of claims does not meet the conditions of PCT Rule 6.2(b) concerning inclusion of numerical references in the claims.

INTERNATIONAL PRELIMINARY EXAMINATION REPORTInternational application No.
PCT/FR99/00764**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1 Claim 1 does not make it clear how an optic system made of a "homogenous material" can, at the same time, have a refractive index that varies. Indeed, the composition of a homogenous material is normally the same at all points (and therefore in all directions), and consequently a constant refractive index at all points.

The description does not remove the ambiguity, as it refers to a "homogenous material" the refractive index whereof varies according to its chemical composition". Now, if the refractive index, and therefore the chemical composition, of said material is variable, one cannot refer to a homogenous material (see discussion above).

2 In Claim 1, the expression "high index" is vague.

3 Moreover, in Claim 1, the expression "variable by the action of mechanical effects" defines only an effect to be achieved. No specific feature that makes it possible to achieve this effect is defined.